

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

STEVEN COOPER,

Plaintiff,

vs.

CITY OF NEW YORK, et al.

Defendants.

Index No. 17-CV-01517

**DECLARATION OF ROB RICKNER
IN OPPOSITION TO DEFENDANTS'
MOTIONS FOR SUMMARY
JUDGMENT**

Rob Rickner, an attorney duly admitted to practice in the Courts of New York and this Court, declares the following under the penalties of perjury:

1. I am co-counsel for Plaintiff Steven Cooper and am familiar with the facts herein and in all supporting papers related to the above-captioned matter.
2. I submit this declaration in opposition to Defendants' motions and to include those exhibits relevant to Plaintiff's response to Defendants' Rule 56.1 Statements and Memorandums of Law in Support of their Motions for Summary Judgment.
3. Plaintiff's exhibits attached hereto are cited as "Pl.Ex. [x]." Plaintiff's Exhibits 1–15 are identical to the sequential exhibits cited and used in each of the depositions in this matter.

PLAINTIFF'S EXHIBITS

4. Attached as Plaintiff's Exhibit 1 is a true and accurate copy of the March 23, 2016 New York Post article entitled "House of Pain rapper charged in road-rage brawl" written by Shawn Cohen.
5. Attached as Plaintiff's Exhibit 2 is a true and accurate copy of copy of the March 20, 2016 letter written by Captain Desmond Morales to the Deputy Commissioner of the IAB regarding the investigation into Jacobs.

6. Attached as Plaintiff's Exhibit 3 is a true and accurate copy of Sgt. Katrincic and Captain Morales' Fitness for Duty Reports evaluating Jacobs on March 20, 2016.

7. Attached as Plaintiff's Exhibit 4 is a true and accurate copy of the NYPD Property Receipt generated upon the formal arrest of Plaintiff on March 20, 2016.

8. Attached as Plaintiff's Exhibit 5 is a true and accurate copy of the March 20, 2016 Arrest Report for Plaintiff memorializing Defendants' false version of the incident.

9. Attached as Plaintiff's Exhibit 6 is a true and accurate copy of the Scratch (draft) Arrest Report prepared by Officer Schrell in the course of Plaintiff's arrest.

10. Attached as Plaintiff's Exhibit 7 is a true and accurate copy of an excerpt from the Command Log at the 90th Precinct on March 20, 2016, reflecting the arrests of Plaintiff and O'Connor and describing Plaintiffs having a "bruised eye."

11. Attached as Plaintiff's Exhibit 8 is a true and accurate copy of the March 20, 2016 Prisoner Movement Slip for Plaintiff from the 90th Precinct.

12. Attached as Plaintiff's Exhibit 9 is a true and accurate copy of the March 20, 2016 Complaint Report reflecting Jacobs' false version of the incident.

13. Attached as Plaintiff's Exhibit 10 is a true and accurate copy of the Desk Appearance Ticket issued to Plaintiff upon his release from the 90th Precinct.

14. Attached as Plaintiff's Exhibit 11 is a true and accurate copy of a PDF photograph of the hat stolen from Plaintiff and thrown away by Defendant Jacobs following the assault.

15. Attached as Plaintiff's Exhibit 12 is a true and accurate copy of a photograph taken by Plaintiff of the desk officer, Pearl Poon (Barnhart) on March 20, 2016.

16. Attached as Plaintiff's Exhibit 13 is a true and accurate copy of a cell phone photo Plaintiff took of himself to record his injuries while inside the 90th precinct on March 20, 2016.

17. Attached as Plaintiff's Exhibit 14 is a true and accurate copy of an excerpt of Defendant Officer Nicholas Horun's memo book from March 20, 2016.

18. Attached as Plaintiff's Exhibit 15 is a true and accurate copy of Defendant Nicholas Horun's February 7, 2020 Responses and Objections to Plaintiff's First Set of Interrogatories.

19. Attached as Plaintiff's Exhibit 16 is a true and accurate recording of Plaintiff's March 20, 2020 911 call reporting an attempted robbery and capturing the second assault on Plaintiff.

20. Attached as Plaintiff's Exhibit 17 is a true and accurate copy of the Sprint Report from Plaintiff's March 20, 2016 911 call reporting the assault.

21. Attached as Plaintiff's Exhibit 18 is a true and accurate copy of copy of the NYPD FINEST Message of Plaintiff's 911 call reporting the assault.

22. Attached as Plaintiff's Exhibit 19 is a true and accurate copy of the IAB's transcript of Plaintiff's 911 call and the radio transmission requesting a unit for an assault in progress.

23. Attached as Plaintiff's Exhibit 20 is a true and accurate excerpt of surveillance footage facing west from the southeast corner of Broadway and Roebling on March 20, 2016.

24. Attached as Plaintiff's Exhibit 21 is a true and accurate cell phone recording of original March 20, 2016 surveillance footage capturing the silver sedan that hit plaintiff in the crosswalk.

25. Attached as Plaintiff's Exhibit 22 is a true and accurate excerpt of surveillance footage facing east from the southwest corner of Broadway and Roebling on March 20, 2016, in which Plaintiff is attempting to flee from his attackers and is assaulted by both Jacobs and O'Connor.

26. Attached as Plaintiff's Exhibit 23 is a true and accurate excerpt of March 20, 2016 surveillance footage at the intersection of Broadway and Roebling which captures Jacobs and O'Connor chasing after Plaintiff, Jacobs picking up Plaintiff's hat, falling to the ground onto his right knee and face, and limping away in the direction O'Connor was still chasing Plaintiff.

27. Attached as Plaintiff's Exhibit 24 is a true and accurate recording of Sgt. Katrincic's March 20, 2016 call to IAB reporting, in part, that Jacobs struck Plaintiff.

28. Attached as Plaintiff's Exhibit 24.1 is a rough transcript of Sgt. Katrincic's March 20, 2016 call to IAB reporting, in part, that Jacobs struck Plaintiff.

29. Attached as Plaintiff's Exhibit 25 is a true and accurate recording from the interview of eyewitness Vassilios Xydias, taken by Sgt. Duran at 6:30 p.m. on March 20, 2016.

30. Attached as Plaintiff's Exhibit 25.1 is a rough transcript of the interview of eyewitness Vassilios Xydias, taken by Sgt. Duran at 6:30 p.m. on March 20, 2016.

31. Attached as Plaintiff's Exhibit 26 is a true and accurate recording from the interview of eyewitness and retired police officer Steven Mona, taken by Sgt. Duran at 7:25 p.m. on March 20, 2016.

32. Attached as Plaintiff's Exhibit 26.1 is a rough transcript of the interview of eyewitness and retired police officer Steven Mona, taken by Sgt. Duran at 7:25 p.m. on March 20, 2016.

33. Attached as Plaintiff's Exhibit 27 is a true and accurate recording from the interview of Sgt. Adam Katrincic, taken by Sgt. Duran at 8:10 p.m. on March 20, 2016.

34. Attached as Plaintiff's Exhibit 27.1 is a rough transcript of the interview of Sgt. Adam Katrincic, taken by Sgt. Duran at 8:10 p.m. on March 20, 2016.

35. Attached as Plaintiff's Exhibit 28 is a true and accurate recording of the interview of responding officer Nicholas Horun, taken by Sgt. Duran at 10:10 p.m. on March 20, 2016.

36. Attached as Plaintiff's Exhibit 28.1 is a rough transcript of the interview of responding officer Nicholas Horun, taken by Sgt. Duran at 10:10 p.m. on March 20, 2016.

37. Attached as Plaintiff's Exhibit 29 is a true and accurate recording from the interview of responding officer Jessica Schrell, taken by Sgt. Duran at 12:30 a.m. on March 21, 2016.

38. Attached as Plaintiff's Exhibit 29.1 is a rough transcript of the interview of responding officer Jessica Schrell, taken by Sgt. Duran at 12:30 a.m. on March 21, 2016.

39. Attached as Plaintiff's Exhibit 30 is a true and accurate excerpt from the interview of Lt. Thomas Jacobs, taken by Sgt. Duran at 12:50 a.m. on March 21, 2016.

40. Attached as Plaintiff's Exhibit 30.1 is a rough transcript of the interview of Lt. Thomas Jacobs, taken by Sgt. Duran at 12:50 a.m. on March 21, 2016.

41. Attached as Plaintiff's Exhibit 31 is a is an IAB memo regarding Lt. Thomas Jacob's March 21, 2016 Patrol Guide Hearing dated February 24, 2017.

42. Attached as Plaintiff's Exhibit 32 is a is a true and accurate recording of Officer Nicholas Horun's March 6, 2017 Patrol Guide Hearing.

43. Attached as Plaintiff's Exhibit 32.1 is a rough transcript of Officer Nicholas Horun's March 6, 2017 Patrol Guide Hearing.

44. Attached as Plaintiff's Exhibit 33 is a is a true and accurate recording of Officer Jessica Schrell's March 6, 2017 Patrol Guide Hearing.

45. Attached as Plaintiff's Exhibit 33.1 is a rough transcript of Officer Jessica Schrell's March 6, 2017 Patrol Guide Hearing.

46. Attached as Plaintiff's Exhibit 34 is a is a true and accurate recording of Sgt. Adam Katrincic's March 7, 2017 Patrol Guide Hearing.

47. Attached as Plaintiff's Exhibit 34.1 is a rough transcript of Sgt. Adam Katrincic's March 7, 2017 Patrol Guide Hearing.

48. Attached as Plaintiff's Exhibit 35 is a is a true and accurate recording of Part 1 of Lt. Thomas Jacobs' June 6, 2017 Patrol Guide Hearing.

49. Attached as Plaintiff's Exhibit 35.1 is a rough transcript of Part 1 of Lt. Thomas Jacobs' June 6, 2017 Patrol Guide Hearing.

50. Attached as Plaintiff's Exhibit 36 is a is a true and accurate recording of Part 2 of Lt. Thomas Jacobs' June 6, 2017 Patrol Guide Hearing.

51. Attached as Plaintiff's Exhibit 36.1 is a rough transcript of Part 2 of Lt. Thomas Jacobs' June 6, 2017 Patrol Guide Hearing.

52. Attached as Plaintiff's Exhibit 37 is a is a true and accurate recording of Part 3 of Lt. Thomas Jacobs' June 6, 2017 Patrol Guide Hearing.

53. Attached as Plaintiff's Exhibit 37.1 is a rough transcript of Part 3 of Lt. Thomas Jacobs' June 6, 2017 Patrol Guide Hearing.

54. Attached as Plaintiff's Exhibit 38 is a true and accurate copy of departmental violations sent to the NYPD Commissioner by Captain Bienvenido Martinez outlining the charges and specifications against Lt. Jacobs for his conduct arising from the March 20, 2016 incident.

55. Attached as Plaintiff's Exhibit 39 is a true and accurate copy of the relevant portions of Plaintiff Steven Cooper's September 14, 2016 50-h hearing testimony.

56. Attached as Plaintiff's Exhibit 40 is a true and accurate copy of the relevant portions of Plaintiff Steven Cooper's October 9, 2020 deposition testimony.

57. Attached as Plaintiff's Exhibit 41 is a true and accurate copy of the relevant portions of Defendant Lt. Thomas Jacobs' October 28, 2020 deposition testimony.

58. Attached as Plaintiff's Exhibit 42 is a true and accurate copy of the relevant portions of Defendant Daniel O'Connor's October 30, 2020 deposition testimony.

59. Attached as Plaintiff's Exhibit 43 is a true and accurate copy of the relevant portions of Officer Nicholas Horun's October 23, 2020 deposition testimony.

60. Attached as Plaintiff's Exhibit 44 is a true and accurate copy of the relevant portions of Officer Jessica Schrell's November 19, 2020 deposition testimony.

61. Attached as Plaintiff's Exhibit 45 is a true and accurate copy of the relevant portions of Sgt. Adam Katrincic's October 22, 2020 deposition testimony.

62. Attached as Plaintiff's Exhibit 46 is a true and accurate copy of the relevant portions of Captain Desmond Morales' October 21, 2020 deposition testimony.

63. Attached as Plaintiff's Exhibit 47 is a true and accurate copy of Assistant District Attorney Sean Hughes' November 4, 2019 deposition testimony.

64. Attached as Plaintiff's Exhibit 48 is a true and accurate copy of the Complaint Screening Sheet alleging Jacobs' version of events, which was screened by ADA Hughes on April 20, 2016.

65. Attached as Plaintiff's Exhibit 49 is a true and accurate copy of the Criminal Complaint and accompanying supporting deposition in *People v. Cooper*, in which Jacobs swore that Plaintiff punched him in the face with a closed fist, causing swelling and bruising.

66. Attached as Plaintiff's Exhibit 50 is a true and accurate copy of a photograph Jacobs took of himself on March 20, 2016 after the altercation.

67. Attached as Plaintiff's Exhibit 51 is a true and accurate copy of the Dismissal Memorandum from ADA Steven Michelen of the Kings County District Attorney's Office, recommending that all charges against Plaintiff be dropped because "[d]efense counsel provided a video which conflicts with the initial account and depicts Lt. Jacobs and [O'Connor] instigating the assault."

68. Attached as Plaintiff's Exhibit 52 is a true and accurate copy of Section 202-15 of the NYPD Patrol Guide from 2017 and 2013, describing the responsibilities of a Command Integrity Control Officer.

69. Attached as Plaintiff's Exhibit 53 is a true and accurate copy of a December 12, 1996 published report from the New York City Commission to Combat Police Corruption entitled *The New York City Police Department: The Role and Utilization of the Integrity Control Officer*.

_____/s/____

Rob Rickner, Esq.